

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MUKESH KUMAR, *et al.*,

Plaintiffs,

v.

Civ. Action No.:
21-CV-11048 (GC)(TJB)

BOCHASANWASI SHRI AKSHAR
PURUSHOTTAM
SWAMINARAYAN SANSTHA, INC.,
et al.,

Defendants.

**PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO WITHDRAW AS COUNSEL FOR 12 PLAINTIFFS**

**I. As No Party Opposes the Instant Motion to Withdraw, the Motion
Should be Granted.**

On August 30, 2023, Defendants Bochasanwasi Shri Akshar Purushottam Swaminarayan Sanstha, Inc., BAPS Mercer LLC, BAPS Robbinsville LLC, BAPS Fellowship Services, Inc., Bharat Patel a/k/a Bharat Doe a/k/a Bharat Bhai, Pankaj Patel, Kanu Patel, Swami Prasanand a/k/a Prashant Darshan Das Sadhu, BAPS Atlanta, LLC, BAPS Chino Hills, LLC, BAPS Development, Inc., BAPS Houston, LLC, BAPS Chicago, LLC, and Rakesh Patel (the “U.S. Defendants”) filed a response indicating they do not

oppose the instant motion of Plaintiffs’ counsel to withdraw as counsel for 12 of the named Plaintiffs in the instant action, Brajendra, Prem Singh, Chhail Wiharee, Shyam Sunder, Lauxmi Narain, Umesh Chand, Keshav Kumar, Harendra, Ramkishan, Bablu, Vijendra Singh, and Pappu (hereafter, the “Twelve Plaintiffs”).¹ *See U.S. Defs.’ Mem.*, ECF No. 54, at 2. Further, none of the Twelve Plaintiffs have indicated they oppose the instant motion, despite being served directly with a copy of the motion, as ordered by this Court. *See ECF Nos. 46, 49–50.*

Accordingly, as no party has opposed the instant motion, the Court should grant the instant application.

II. The Court Should Not Rule on Any Issues Regarding the Stay at this Time, as No Application to Lift the Stay is Pending.

Separately, Mark Berman, Esq. has appeared and stated that he represents the Twelve Plaintiffs “for the limited purpose” of representing them “in connection with an anticipated motion to dismiss under Federal Rule of Civil Procedure 41.” ECF No. 52. Mr. Berman states that he has “no reason to believe . . . that the 12 plaintiffs

¹ As noted in our moving brief, should withdrawal be granted, our firms would remain as counsel for the following nine Plaintiffs: Mukesh Kumar, Davi Laal, Niranjan, Mahendra Kumar, Rama Ram, Ramesh Kumar, Deva Ram, Rupa Ram, and Khima Ram Rebari.

have entered into a settlement agreement with any defendant,”² but that he intends to satisfy himself that the Twelve Plaintiffs’ decision to dismiss their claims is “knowing and voluntary” and asks for “sufficient time” or “a reasonable amount of time” in which to do so. *Id.* at 1–2. The remaining nine lead Plaintiffs do not oppose Mr. Berman’s application for some time to conduct this inquiry, provided that it is completed within forty-five days.

That being said, there is no reason for the Court to rule on the timing of an application to lift the stay to conduct discovery, which is unrelated to Mr. Berman’s inquiry into his new clients’ wishes.³ As the Court previously noted at the August 10, 2023 conference, no application to lift the stay or conduct discovery is currently pending before this Court. Accordingly, the Court need not set a schedule for that motion at this time.

DATED: Princeton, NJ
September 6, 2023

JAFFE GLENN LAW GROUP

/s/ Andrew Glenn
Andrew Glenn

² We note that Mr. Berman’s statement does not preclude the possibility that the Twelve Plaintiffs have received payments in exchange for settlement of their claims, whether or not they were received directly from any defendant.

³ While we disagree with Defendants’ and Mr. Berman’s assertions about whether discovery is necessary, and with Mr. Berman’s view of the ethical issues concerning discovery of former clients, we will defer arguing those issues until an application to lift the stay is before the Court.

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